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COMMITTEE ON THE RIGHTS OF THE CHILD

First session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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Other matters (continued)

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The meeting was called to order at 10.35 a.m.

OTHER MATTERS (agenda item 11) (continued)

Statement to be distributed to the press

1. The CHAIRMAN said that the draft statement which was to be distributed to the press and which had been prepared by Mr. Hammarberg would be amended by the Drafting Group in the light of the comments made by the members of the Committee.

2. It was so decided.

Working methods

3. The CHAIRMAN invited the Committee to consider the draft notes on working methods prepared by Mr. Hammarberg.

4. Mr. HAMMARBERG said that the purpose of the notes on working methods was to draw attention to a number of important points raised during the discussion of the rules of procedure. The notes might be used as a basis for the preparations for the Committee's next meeting.

5. The CHAIRMAN invited the Committee to consider part I of the notes, which read:

"I. Functions and major methods

1. The main function of the Committee is spelled out in article 43.1: to examine the progress made by State parties in achieving the realization of the obligations in the Convention. The consideration of State party reports is therefore naturally a major activity for the Committee. The means it decides to have at its disposal for giving due consideration to these reports is of vital importance. It can seek assistance by other bodies as specified in article 45 (a). An important aspect of the work will be to transmit requests for technical advice or assistance as mentioned in article 45 (b).

2. The Committee will in its work also:

(a) Initiate studies with the purpose of highlighting and developing knowledge about important aspects of the rights of the child. The initiation of such studies could be proposed to the Secretary-General via the General Assembly, but the Committee could also initiate studies in cooperation with UNICEF, the ILO and other United Nations organs as well as with non-governmental organizations.

(b) Draft and agree upon general recommendations in the field of the Rights of the Child.

(c) Draft and agree upon general comments on articles in the Convention.

(d) Stimulate further discussion about important aspects of the rights of the child through organizing at each of its regular sessions a general discussion about a particular subject in this field. Sometimes these discussions might be based on a study and/or lead to a general recommendation or a general comment. The media will be especially invited.

3. The Committee shall also work in a manner that it encourages international cooperation in the field of the rights of the child. The cooperation with specialized agencies, UNICEF, other United Nations organs as well as other competent bodies (including relevant NGOs) is therefore important.

4. The process which the Committee is set to guide is meant to be an open one. The States parties are obliged to make known to their citizens, including the young ones, the principles and provisions of the Convention (article 42). They shall make their reports widely known to the public in their own country (article 44.6). It is essential that the Committee conducts its affairs in the same open atmostphere - discussion should be stimulated."

6. Mr. KOLOSOV said that he particularly welcomed the last sentence of paragraph 2 concerning the media. He suggested that the following sentence should be added after the first sentence of paragraph 4: "The process of adoption of the reports by the competent bodies inside a country should involve as wide a participation as possible of parliamentary structures, national non-governmental organizations and the public at large".

7. Mrs. SANTOS PAIS suggested that paragraph 4 might refer to the encouragement of popular participation and public scrutiny, rather than specifying the bodies to be involved, as proposed by Mr. Kolosov.

8. The CHAIRMAN suggested that the Committee should request Mr. Hammarberg to amend part I in the light of those comments.

9. It was so decided.

10. The CHAIRMAN invited the Committee to consider part II of the notes, which read:

"II. Meetings

5. The Committee will hold two regular sessions each year. Normally a regular session will last for two weeks. When there is a need for further meetings, for instance, in order to avoid delays in the consideration of State party reports, special meetings will be requested.

6. The Committee will appoint sub-committees when appropriate. Plenary sessions at which State party reports will be considered shall normally be prepared by a pre-sessional subcommittee session.

7. The Committee will be represented at meetings of other bodies as appropriate. Authorization for such representation will be given by the Committee as a whole or, between sessions, by the Chairperson."

11. Mr. KOLOSOV suggested that paragraph 5 should state that, for 1993, 1994 and, possibly, 1995, two three-week sessions a year would be necessary for the consideration of initial reports and that, subsequently, two two-week sessions a year would probably be sufficient. With regard to paragraph 6, he was of the opinion that preparations for plenary meetings should be entrusted to working groups, not to subcommittees, which might be established, for example, to prepare general comments and recommendations.

12. Mrs. SANTOS PAIS noted that the rules of procedure used the words "subsidiary bodies", a term which covered subcommittees and working groups, depending on the matter the Committee intended to discuss. She therefore thought that, in the first sentence of paragraph 6, it would be preferable to replace the word "subcommittees" by the words "subsidiary bodies". In the second sentence, the Committee should delete the word "subcommittee" and not indicate which body would be meeting. She would welcome some explanations concerning the nature of the notes under consideration.

13. Mrs. KLEIN (Representative of the Secretary-General) said that other committees which had established working groups had entrusted them with a number of tasks, including the examination of States parties' reports and the preparation of general comments, recommendations and suggestions.

14. With regard to the notes under consideration, it had been thought that the Committee might wish to submit an interim report to the General Assembly. She had been informed by Headquarters that such a report should be brief and consist of not more than 15 to 20 pages. She suggested that the Committee might consider including a longer chapter on its working methods in the report it was to submit to the General Assembly through the Economic and Social Council.

15. Mrs. EUFEMIO said she had had the impression that the notes on the Committee's working methods were supposed to amplify some of the rules of procedure. In that connection, she thought that paragraph 6 should be more specific about the establishment of subsidiary bodies and would welcome information on the meaning of the words "when appropriate" in the first sentence.

16. Miss MASON said that she agreed with the comments made by Mrs. Eufemio. She thought that the Committee should set up working groups specializing in certain areas, although all members of the Committee would have some input.

17. With regard to the statement in paragraph 5 that "Normally a regular session will last for two weeks", it might be preferable to expand the text and say that, when there was need for additional meetings, the Committee should be allowed to hold them.

18. Mr. HAMMARBERG said that the Committee must be clear on what it wanted. It had to combine what it needed and what was realistic in the same message. The basic requirement was two sessions which would each last for two weeks. However, in view of the inflow of reports expected over the next two years, it should be explained that the Committee might need either an extended session or a special session. It might not be realistic to request two regular three-week sessions, since it would be difficult to predict what the workload would be after five or six years.

19. Mrs. SANTOS PAIS, replying to a point raised by Mrs. EUFEMIO, said all members agreed that it would probably be necessary to hold special sessions to discuss special issues. At present, however, the Committee had to determine how it would cope with all of the reports it expected State parties to submit within the next two years.

20. The CHAIRMAN said the Committee generally agreed that it was necessary to state the need for two regular sessions lasting two weeks each and to leave the door open for additional meetings.

21. Mr. HAMMARBERG said it would be useful to explain what was meant by "working groups" and "subcommittees".

22. Mrs. KLEIN (Representative of the Secretary-General) said that the human rights treaty bodies had working groups. The Commission on Human Rights also had working groups, including pre-sessional working groups, intersessional working groups and in-session working groups.

23. The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed to replace the words "subcommittees" in paragraph 6 by the words "working groups".

24. It was so decided.

25. After a discussion in which Mrs. EUFEMIO and Mrs. SANTOS PAIS took part, Mr. HAMMARBERG said that the words "when appropriate", as used in the first sentence of paragraph 6, really meant when there was a need for a working group.

26. Mrs. KLEIN (Representative of the Secretary-General), referring to working groups established by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, said that the two Committees scheduled certain reports to be taken up at their next sessions. The Chairmen, in consultation with other members of the Committee, then appointed the members of working groups that would meet prior to those sessions. The membership of the working groups rotated from session to session so that each member took part. Of course, the composition of the working groups depended on the members' availability and on the need to ensure equitable geographical distribution.

27. Mr. KOLOSOV said that the notes under consideration were not an official document and that the Committee was merely having a preliminary discussion and exchange of views.

28. The CHAIRMAN agreed with Mr. Kolosov and said that the notes were not binding on the Committee. They reflected the discussions which had taken place and the views of most of the members of the Committee.

29. The CHAIRMAN invited the Committee to consider part III of the notes, which read:

"III. Consideration of State party reports

8. The consideration of the State party reports is a major aspect of the Committee's work. The planning should be based on the principle that each received State party report should be considered in substance within one year. If the regular sessions are too short for that, the Committee will endeavour to hold special sessions or prolong the regular ones.

9. When considering a State party report the Committee enters into a dialogue aiming at defining the problems in relation to the rights of the child in the country - and discuss means to remedy them. However, this does not mean that the Committee should not be strict and principled when it comes to clarifying the obligations of the State parties. The combination of the principled and constructive approaches will be major characteristics of the Committee.

10. A key concept in the process is dialogue. A State party will be addressed by the Committee (through the Secretary-General) already when it has ratified. It will be reminded about the reporting obligations, informed about when the report will be due and at the same time provided with the Committee guidelines for report writing. It will also be informed about the Centre for Human Rights programme for technical assistance and advisory services. UNICEF has informed the Committee about its programme of support to governments during the report writing. Governments which have not submitted their reports in time, will be reminded.

11. When the State party report is received it will be considered first by a sub-committee of the Committee, which makes a preliminary review. The substance of the report will be analysed. In this the sub-committee will be assisted by a technical advisory group consisting of representatives of specialized agencies, UNICEF and other United Nations organs. It will also benefit from the documentation system in the Centre and particularly the country dossiers. Non-governmental organizations and other competent bodies will be invited to give 'expert advice' when relevant.

12. After its session the sub-committee should inform the government in writing about questions it has and the need (if any) for supplementary information. It should brief the Committee as a whole on its preliminary findings and advise it on the focus of the plenary discussions. Sub-committee members will act as rapporteurs on countries up for discussion at the plenary.

13. Government representatives will be invited to the plenary discussions. Also at this stage the Committee may ask for further information. At the end of the consideration of a State party report, the Committee will issue a statement, 'Concluding Observations'. This will be an authoritative comment with the purpose of defining outstanding problems and discussing remedies. These observations will form the basis for discussions about technical advice or assistance."

30. Mr. KOLOSOV said that, in the second line of paragraph 11, the word "subcommittee" should be replaced by the words "working group".

31. Concerning paragraph 8, a one-year deadline for the consideration of reports might not be sufficient, in view of the time needed to process the reports, mail them to members, request additional information, etc. It might therefore be more realistic to speak of an 18-month deadline.

32. Mr. HAMMARBERG said that, while it might be unwise for the Committee to promise Governments too speedy a reaction, it would not be unwise for it to aim at a one-year deadline in its own planning. The public expectations that would be raised in many countries concerning the Committee's consideration of a report were such that a time lapse of more than one year would be excessive. One year was a long time in the life of a country and many changes might occur that would relegate the report to the background. A sufficiently rapid mechanism for coping with delays due to exceptional situations was built into the methods of work as they stood.

33. Mrs. SANTOS PAIS said that she had no strong preference concerning the one-year deadline. The Committee, which had a heavier workload than the other treaty bodies, would naturally need to develop a different method of work. However, it was enough for it to be aware of its backlog and plan its action in a way that would make bodies elsewhere in the system aware of its problems, in particular as far as the financial aspects was concerned. The problem of the late consideration of reports had already arisen in other treaty bodies and its solution had been either the submission of updated written information or its inclusion in the oral introduction to the report by the representative of the State party.

34. It would be preferable for the pre-sessional working group to meet some weeks before the Committee's sessions rather than immediately in advance. That would allow time to send a list of questions to the State party and would result in a more constructive dialogue for both the Committee and the State party.

35. With regard to paragraph 13, she noted that the concluding observations would be helpful both to the Committee and to the State party in providing a basis for technical advice and assistance and also a starting point for subsequent reports by the State party.

36. The CHAIRMAN requested the secretariat to give the members an idea of how much time might be needed for the preparation of a report by a State party and its transmission to the members for their consideration.

37. Mrs. KLEIN (Representative of the Secretary-General) replied that the question was a difficult one to answer, for it depended on the length of the report and the time of the year it was received. She also noted that time must be allowed for informing the representatives of the State party in advance of the consideration of the report so that they could prepare for their appearance before the Committee.

38. Mr. HAMMARBERG suggested that the text of paragraph 8 should be amended to show that, although the Committee hoped to consider reports by States parties within one year, in exceptional situations, the time-limit would be 18 months.

39. Mr. O'DONNELL (Defense for Children International Movement) said he hoped that the last sentence of paragraph 11 was not meant to suggest that it was exceptional to invite non-governmental organizations to provide expert advice. The non-governmental organizations were in the best position to provide information on the entire range of rights covered in the Convention and, in particular, on the issues such as civil rights and freedoms, the child's position within the family and adoption. In addition, he would suggest that bodies, such as INTERPOL and the International Committee of the Red Cross, should be members of the technical advisory group so that they might contribute to its work on a regular basis.

40. Mr. HAMMARBERG said that the Committee needed to discuss the functioning of the pre-sessional working group and the exact composition of the technical advisory group. With regard to Mr. O'Donnell's suggestion, it was perhaps unrealistic to expect the specialized agencies and other United Nations bodies to attend meetings of the technical advisory group on a regular basis.

41. In practical terms, the pre-sessional working group would meet six weeks in advance of the Committee's session and consider the reports by States parties. If the group felt that further advice was required, it would at that point invite the competent bodies to provide it. In order to function properly, that method of work would require good knowledge of the Committee's agenda and of the programmes of the other bodies involved and it should be followed in a small setting and a focused and operational atmosphere. Some preparation in that area for the Committee's next session was probably advisable.

42. Mrs. SANTOS PAIS noted that it was difficult to have clear ideas on the subject at the current stage. Perhaps the matter should be discussed in the pre-sessional working group for the following session, before the Committee had any reports to consider. It was obvious that, once the consideration of reports began, the Committee would have little time to discuss its methods of work.

43. The CHAIRMAN invited the Committee to consider part IV, of the notes, which read:

> "IV. Technical advice or assistance
>
> 14. According to article 45 (b) the Committee shall transmit, as it may consider appropriate, reports containing a request, or indicating a need, for technical advice or assistance. It may also add its own observations and suggestions to these communications. The addressees are the various United Nations bodies listed in article 45 (a). The intention is that the Committee might take a catalyzing role in this field within the framework of its cooperation with the specialized agencies and other United Nations bodies.

15. The Committee can encourage technical assistance and advisory services from the Centre for Human Rights. Though the Committee has no formal influence over that programme, advice from the treaty committees is taken seriously, especially in a planning context. Support from that programme could be directed towards work in relation to the ratification, training of personnel, drafting of revised laws and procedures, drafting of the State party report, etc. The Committee should be informed about such activities in relation to the Convention on the Rights of the Child. Similar information should be requested from UNICEF and other United Nations bodies.

16. The concluding observations that the Committee will issue at the end of the consideration of a State party report could, when relevant, form the basis for further discussions between the State party and the relevant United Nations bodies. The Committee could catalyze such discussions (or rather the continuation of them, as they in most cases will have started already). The particular competence of the Committee will be in the area of defining the needs. Its dialogue partner in this context will be the technical advisory group."

44. Mr. O'DONNELL (Defense for Children International Movement) noted that paragraph 14 indicated that requests for technical assistance would be transmitted to the United Nations bodies listed in article 45 (a). Article 45 (a) also referred, however, to "other competent bodies", some of which were already providing assistance to Governments in implementing the Convention. It was to be hoped that the Committee would make use of the advice of such organizations. It was also desirable for the Committee not simply to transmit "requests" for assistance, but to hold informal consultations with competent bodies prior to its consideration of the reports of States parties.

45. Mr. HAMMARBERG said that the wording of paragraph 14 was meant to ensure respect for the integrity of the NGO community, to enable such organizations to operate in total freedom. Official requests from the Committee would, as he understood it, be unwelcome to non-governmental organizations: they would prefer to be free agents.

46. Mrs. SANTOS PAIS said that it would be difficult to anticipate all the situations that might arise in future: the description of working methods should not be viewed as binding.

47. The CHAIRMAN invited the Committee to consider section V of the notes, which read:

"V. International cooperation

17. The Committee will liaise with other treaty bodies; in particular the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee against Torture. The purpose of these contacts is to avoid duplications, to ascertain consistency in the

responses from treaty bodies to Governments, to draw from and build on their previous work, for instance, with regard to general comments and to learn from their experiences regarding methods of work.

18. The Committee will also relate to UNICEF, ILO, WHO, WFP, FAO, UNESCO, UNHCR, UNSCDHA, UNDP and the World Bank. These will, when appropriate, be invited to the technical advisory group for the pre-sessional consideration of State party reports. A coordinated information system on the rights of the child will be developed in cooperation with these agencies and organs. They will, when that is needed, be invited to produce information within their mandate to the work of the Committee. Cooperation will sometimes be sought on studies.

19. These United Nations bodies, as well as the treaty bodies, can attend public meetings of the Committee as observers. They may be invited to private meetings. They may also be especially invited to give expert advice to the Committee.

20. The Committee will be kept informed about the relevant developments in the Commission on Human Rights and its subsidiary bodies. It will relate to rapporteurs, special representatives and observers whose mandates cover the rights of the child.

21. The term 'other competent bodies' in article 45 (a) includes both intergovernmental organs outside the United Nations system and non-governmental organizations. These may according to the same article be invited to give expert advice. The Committee wants to establish a constructive working relationship with such bodies. They may be invited to the pre-sessional consideration of State party reports and invited to plenary sessions to provide information when, for instance, the Committee is discussing thematic aspects on the rights of the child. They may also be invited to private sessions.

22. Those invited to a meeting are participants with observer status and will have access to the documentation for that meeting, including the summary records. All public meetings are open to the general public, which means that interested organizations can attend as part thereof (without observer status).

23. A mailing list will be established of NGOs which work for the rights of the child and express an interest in relating to the Committee. Those organizations will be kept informed about the work of the Committee and its progress, including about forthcoming sessions. They should be invited to provide written information about their programmes and data on the rights of the child."

48. Mr. KOLOSOV suggested that the words "and to learn from their experiences regarding methods of work" at the end of paragraph 17 should be deleted. It would be unwise for the Committee, at the very beginning of its work, to draw attention to its lack of experience. As time went on, other treaty bodies might even learn from the Committee's experience.

49. Paragraph 19, which indicated that United Nations bodies and treaty bodies "can attend" public meetings of the Committee as observers, should be understood to mean that such bodies were "entitled" to attend the meetings, as was indeed the case.

50. The reference in paragraph 20 to the Committee's being "kept informed" about relevant developments in the Commission on Human Rights and its subsidiary bodies should be construed as referring primarily to the regular submission to the Committee by the secretariat of the reports of those bodies, although it did not rule out the provision of other relevant information.

51. Mrs. SANTOS PAIS said that paragraph 20 was meant to ensure that the Committee was kept informed of developments in the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and that it established a dialogue with special rapporteurs, notably the Special Rapporteur on the sale of children, child prostitution and child pornography. It had been suggested that the secretariat should provide a member of the Committee with documentation to enable him or her to make a brief presentation on developments in the Commission and the Sub-Commission.

52. Mr. HAMMARBERG said that section V was intended to provide for fruitful cooperation with the Committee's potential advisers. The problem was to ensure that those advisers could give their assistance at the appropriate time. The Committee wanted to have constructive working relations with its potential advisers, yet it also believed it had to be in control of how and when their advice was offered.

53. Mr. O'DONNELL (Defense for Children International Movement) said that, clearly, the Committee had full discretion on when to allow competent bodies to participate in its work. It should be aware, however, that the definition in paragraph 21 of the term "other competent bodies" was much narrower than the one emerging from its discussions so far. The International Committee of the Red Cross and INTERPOL, for example, did not qualify as competent bodies under the terms of paragraph 21, but they were both capable of providing useful expert advice. Similarly, research institutions and governmental bodies, such as national human rights commissions or ombudsmen, would be prevented from participating in the Committee's work.

54. Paragraph 23 referred to a mailing list of non-governmental organizations: it was to be hoped that other competent bodies would also be included on the mailing list.

55. Mr. HAMMARBERG said that the mailing list should indeed include as many organizations as possible. As to participation in the Committee's meetings, the wording of paragraph 21 would not in any way prevent the Committee from inviting any competent organization to make a contribution. The assistance of such bodies was, of course, highly desirable.

56. The CHAIRMAN invited the Committee to consider section VI of the notes, which read:

"VI. Reports

24. The report to the General Assembly every second year should contain a summary of the Committee's proceedings; information about the consideration of State party reports including the concluding considerations, general comments and general recommendations adopted by the Committee.

25. The Committee will issue a summary report on its work after each session. At the end of each annual period (March-February) an interim annual report will also be issued. The Committee might also decide to issue reports on subject matters within the field of the rights of the child."

57. Mr. KOLOSOV, asked whether financing would be available for the summary reports and interim annual reports mentioned in paragraph 25.

58. Mrs. SANTOS PAIS said that, as she understood it, the Committee was entitled to produce reports in addition to the biennial report mentioned in article 44, paragraph 5, of the Convention. It was extremely important for useful, accessible and short reports to be written on its work frequently in order to ensure that public expectations of the Committee were not disappointed.

59. The CHAIRMAN, summing up the discussion, emphasized that the notes on working methods were not to be an official Committee document. If she heard no objection, she would take it that the Committee wished to request Mr. Hammarberg, in consultation with the Rapporteur, to revise the notes in the light of the comments and suggestions made by the members of the Committee. The comments made by participants in the discussion other than Committee members should also be taken into account.

60. It was so decided.

61. Mr. KOLOSOV proposed that, in the Committee's report on the current session, it should include a paragraph stating that the Committee had drafted and taken note of the notes on working methods.

62. It was so decided.

The meeting rose at 1.05 p.m.